

Congress of the United States
Washington, DC 20515

May 17, 2011

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, D.C. 20460

Dear Administrator Jackson:

The U.S. Environmental Protection Agency (EPA) on May 3, 2011, published in the Federal Register its proposed rule (i) setting new national emission standards for hazardous air pollutants from coal and oil-fired electric utility steam generating units (EGUs); and (ii) revising performance standards for fossil-fuel fired EGUs. This proposed rule is commonly referred to as the "Utility MACT." EPA has provided the public only 60 days to comment on the proposal.

We urge that the agency extend the comment period to a minimum of 120 days to allow adequate time for stakeholders to assess and comment on the proposal. An extension is warranted to allow sufficient time to review the proposed rule and underlying materials and address the approaches, definitions, and issues upon which EPA has solicited comment. We are aware that EPA has already received preliminary public comments raising concerns that there may be significant errors in the Agency's technical analyses of underlying data used to set standards in the rule. We recognize the Agency is currently obligated to finalize the rule by November 16, 2011. However, we note that the consent decree was entered into voluntarily and that its terms provide EPA the right to seek a judicial extension of the deadline should circumstances warrant.

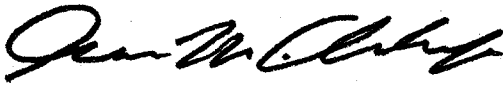
The Utility MACT proposed rule has major electric reliability and economic implications for the nation. EPA recognizes the rule will result in plant shutdowns and increased electricity rates, and estimates compliance costs of \$10.9 billion annually, making it one of the single most expensive rules proposed in the Agency's history. But EPA's estimates do not include indirect and cumulative costs associated with the proposal and other major EPA rules and compliance deadlines the agency plans to impose on electric utilities over the next several years. A recent analysis by ICF International of EPA's "train wreck" regulations estimates the cumulative capital expenditures for retrofits and new builds could exceed \$300 billion in 2015, more than two thirds of which would be for replacement generation. Even assuming this replacement of generation will not disrupt electric reliability, electricity rates will dramatically increase.

The Utility MACT proposal raises serious legal, policy, technological and economic issues that should be fully considered during the rulemaking process. A rule of this consequence

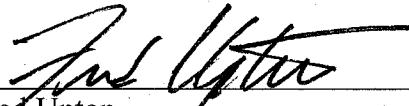
requires time for stakeholders to analyze what has been proposed; it also requires that EPA fully consider stakeholder input. The current, truncated schedule is insufficient to provide for a thoughtful, deliberative rulemaking process – especially considering the magnitude of what has been proposed. EPA should act now to modify the rulemaking schedule to allow stakeholders a reasonable and deliberative period.

We ask that you respond to this request within two weeks of the date of this letter.

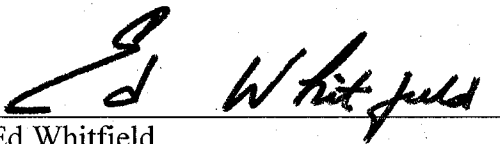
Sincerely,



James M. Inhofe
Ranking Member
Senate Committee on
Environment and Public Works



Fred Upton
Chairman
House Committee on Energy and Commerce



Ed Whitfield
Chairman
House Subcommittee on Energy and Power

cc: The Honorable Barbara Boxer, Chairman
Senate Committee on Environment and Public Works

The Honorable Henry A. Waxman, Ranking Member
House Committee on Energy and Commerce

The Honorable Bobby L. Rush, Ranking Member
House Subcommittee on Energy and Power